

Message Text

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ORIGIN EUR-12

INFO OCT-01 ISO-00 FEA-01 AID-05 CEQ-01 CIAE-00 OFA-01

COME-00 DODE-00 EB-07 EPA-04 INR-07 IO-10 L-03 NSF-02

NSC-05 NSAE-00 PM-03 USIA-15 OES-05 SS-15 SP-02 PA-02

PRS-01 /102 R

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L/EUR:JRCROOK (DRAFT)

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R 080107Z JUL 75

FM SECSTATE WASHDC

TO AMEMBASSY OTTAWA

UNCLAS STATE 159781

E.O. 11652: N/A

TAGS: SENV, CAN

SUBJECT: NIAGARA RIVER LANDFILL

1. EMBASSY IS REQUESTED TO DELIVER THE FOLLOWING NOTE
TO THE MINISTRY OF EXTERNAL AFFAIRS:

QUOTE THE EMBASSY OF THE UNITED STATES PRESENTS ITS
COMPLIMENTS TO THE MINISTRY OF EXTERNAL AFFAIRS AND
HAS THE HONOR TO REFER TO A LETTER FROM THE CANADIAN
SECRETARY OF THE INTERNATIONAL JOINT COMMISSION TO
THE SECRETARY OF STATE FOR EXTERNAL AFFAIRS DATED
MAY 23, 1975 ON THE SUBJECT OF A LANDFILL IN THE
NIAGARA RIVER PLACED BY OR FOR NIAGARA HARDWARE AND
LUMBER LIMITED. A COPY OF THAT LETTER WAS TRANS-
MITTED TO THE DEPARTMENT OF STATE BY THE UNITED STATES
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SECRETARY OF THE INTERNATIONAL JOINT COMMISSION UNDER
COVER OF A LETTER DATED JUNE 16, 1975.

THE DEPARTMENT OF STATE HAS NOTED THAT THE COMMISSION'S INTERNATIONAL NIAGARA BOARD OF CONTROL'S STUDIES INDICATE THAT THE LANDFILL IN QUESTION WOULD MATERIALLY AFFECT THE LEVELS OF BOUNDARY WATERS. IN THIS RESPECT, THE GOVERNMENT OF THE UNITED STATES WOULD APPRECIATE KNOWING WHAT STEPS WILL BE TAKEN BY THE

GOVERNMENT OF CANADA WITH RESPECT TO ARTICLE III AND ARTICLE VIII OF THE BOUNDARY WATERS TREATY. UNQUOTE

2. IN PRESENTING NOTE, EMBASSY SHOULD INDICATE THAT DEPARTMENT HAS TAKEN THE VIEW THAT THE LANDFILL DOES MATERIALLY AFFECT NATURAL LEVELS AND AN APPLICATION TO THE COMMISSION IS THEREFORE REQUIRED. YOU MAY FURTHER INDICATE THAT THE DEPARTMENT HOPES THAT THIS MATTER CAN BE RESOLVED PROMPTLY IN ORDER TO ASSURE THAT THIS PROBLEM DOES NOT BECOME AN ISSUE BETWEEN GOVERNMENTS.

3. EMBASSY SHOULD BE AWARE THAT SUBJECT OF HIGH LEVELS ON THE GREAT LAKES CONTINUES TO BE A SENSITIVE ISSUE WITHIN THE US, AND THAT DEPARTMENT WOULD FEEL OBLIGED TO TAKE A STRONG STANCE WITH THE GOC IF THE EFFECT OF THE LANDFILL ON LAKE ERIE LEVELS BECOMES PUBLIC KNOWLEDGE.

4. TEXT OF IJC LETTER OF MAY 23 FOLLOWS:

QUOTE

DEAR MR. MACEACHEN: UNDER ARTICLE III OF THE BOUNDARY WATERS TREATY OF 1909, THE PARTIES AGREED THAT UNLESS PROVIDED FOR BY SPECIAL AGREEMENT BETWEEN THEM NO FURTHER OBSTRUCTIONS OF BOUNDARY WATERS AFFECTING THE NATURAL LEVEL OR FLOW OF BOUNDARY WATERS ON THE OTHER SIDE OF THE BOUNDARY WOULD BE MADE EXCEPT WITH THE APPROVAL OF THE INTERNATIONAL JOINT COMMISSION. ARTICLE VIII OF THE TREATY PROVIDES THAT THE COMMISSION SHALL HAVE JURISDICTION OVER AND SHALL PASS UPON ALL

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SUCH CASES WITH RESPECT TO WHICH ITS APPROVAL IS REQUIRED.

IT HAS COME TO THE ATTENTION OF THE COMMISSION, THROUGH ITS INTERNATIONAL NIAGARA BOARD OF CONTROL THAT FILL HAS BEEN PLACED IN THE NIAGARA RIVER ALONG THE CANADIAN SHORE IN FORT ERIE. IT IS LOCATED APPROXIMATELY 2000 FEET DOWNSTREAM FROM THE PEACE BRIDGE AND EXTENDS ABOUT 118 FEET INTO THE RIVER. APPARENTLY THIS FILL WAS PLACED BY OR FOR NIAGARA HARDWARE AND LUMBER LIMITED, WITHOUT ANY GOVERNMENTAL AUTHORIZATION.

" - - - - -"

THE BOARD OF CONTROL, AT THE REQUEST OF THE COMMISSION, HAS CONDUCTED A STUDY OF THE EFFECT OF THIS FILL ON THE LEVELS OF LAKE ERIE. THE RESULTS OF THE STUDY SHOW THAT, RELATIVE TO THE LEVELS CORRESPONDING TO 1959 SHORELINE DEVELOPMENT, THE EFFECT OF THE FILL IS TO ULTIMATELY RAISE THE LEVEL OF LAKE ERIE ABOUT .07 FOOT UNDER AVERAGE

NIAGARA RIVER FLOW CONDITIONS (ABOUT 202,000 CFS).

LAKE ERIE AND THE NIAGARA RIVER BEING "BOUNDARY WATERS" AS DEFINED IN THE BOUNDARY WATERS TREATY, IT IS APPARENT THAT ARTICLE III OF THAT TREATY APPLIES AND, IN THE ABSENCE OF A SPECIAL AGREEMENT BETWEEN THE PARTIES, THE APPROVAL OF THE INTERNATIONAL JOINT COMMISSION OF THIS OBSTRUCTION IN BOUNDARY WATERS IS REQUIRED.

ACCORDINGLY THE COMMISSION REQUESTS THAT THE GOVERNMENT OF CANADA TAKE APPROPRIATE ACTION TO ENSURE THAT THE REQUIREMENTS OF THE TREATY ARE COMPLIED WITH IN REGARD TO THIS OBSTRUCTION IN BOUNDARY WATERS. THE COMMISSION WOULD APPRECIATE BEING INFORMED AS SOON AS PRACTICABLE OF THE ACTION CONTEMPLATED BY THE GOVERNMENT OF CANADA IN THIS CONNECTION.

A COPY OF THIS LETTER IS BEING SENT TO THE UNITED STATES DEPARTMENT OF STATE BY THE SECRETARY OF THE UNITED STATES SECTION OF THE COMMISSION. YOURS SINCERELY. UNQUOTE.
KISSINGER

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<< END OF DOCUMENT >>

Message Attributes

Automatic Decaptioning: X
Capture Date: 26 AUG 1999
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: TREATY COMPLIANCE, RECLAIMED LAND, WATER BOUNDARIES
Control Number: n/a
Copy: SINGLE
Draft Date: 08 JUL 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975STATE159781
Document Source: ADS
Document Unique ID: 00
Drafter: EUR/CAN:LFJANOWSKI:MGH
Enclosure: n/a
Executive Order: N/A
Errors: n/a
Film Number: D750234-0964
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t197507104/baaaaopl.tel
Line Count: 140
Locator: TEXT ON-LINE, TEXT ON MICROFILM
Office: ORIGIN EUR
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators:
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: hartledg
Review Comment: n/a
Review Content Flags:
Review Date: 23 APR 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <23 APR 2003 by ThomasVJ>; APPROVED <22 MAR 2004 by hartledg>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: n/a
TAGS: SENV, CA, US
To: OTTAWA
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006